

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**IN RE NATIONAL COLLEGIATE
ATHLETIC ASSOCIATION STUDENT-
ATHLETE CONCUSSION INJURY
LITIGATION**

MDL No. 2492
Master Docket No. 1:13-cv-09116
Judge John Z. Lee

**DECLARATION OF TIMOTHY J. McILWAIN IN SUPPORT OF
MOTION FOR FEES AND EXPENSES**

I, Timothy J. McIlwain, declare as follows:

1. I am the owner and managing member of McIlwain, LLC. I represent Plaintiffs Chris Walker, Ben Martin and Dan Ahern (“*Walker* Class Representatives”) in the above-entitled action. I am submitting this declaration in support of my application for an award of attorneys’ fees and expenses in connection with services rendered in the above-entitled action.
2. I support the Settlement in this matter.
3. I first became involved with this litigation in August of 2013 when Hausfeld, LLP requested that I be added to the pleadings of the *Walker* matter in the United States District Court, Eastern District of Tennessee and prior to Hausfeld, LLP being appointed by the Court as Special Class Counsel for Monitoring Relief.
4. I reviewed all documents electronically filed and mailed since the *Walker* Complaint was filed on September 3, 2013.

5. From the beginning I was asked to find an adequate class representative for the complaint's **primary focus on late-life cognitive impairment medical monitoring relief (for Dementia and CTE) on behalf of the older former NCAA football players.** [Emphasis added].
6. I sought and found a former teammate of my college football coach, Joe Kapp, Plaintiff Bennie Charles Witukiewicz, who played football for the Kent State University "Golden Flashes" from 1964 to 1967. Mr. Witukiewicz played as a tight end. During his college career he experienced repeated traumatic head impacts. Mr. Witukiewicz was diagnosed with Parkinsons Disease on or about September, 2007. Mr. Witukiewicz believes that he suffered repeated traumatic head impacts over his college career, but due to his current condition cannot recall specific dates.
7. I obtained a written retainer from Mr. Witukiewicz and immediately contacted attorney Michael Hausfeld to inquire if they wanted to add a class representative.
8. After retaining Mr. Witukiewicz I obtained medical records and had my medical doctor paralegal review all of the medical literature referenced in every original complaint and tag along complaint in connection with this class action. Additionally, I drafted, but did not file a complaint on Mr. Witukiewicz's behalf because of the potential conflict of interests.
9. Through December 31, 2016, the total number of hours spent on this litigation by me and members of my law practice is 184.80. The total lodestar amount for attorney/professional time based on current rates is **\$58,595.**
10. When McIlwain, LLC brings cases on behalf of individual clients on a contingency basis, it charges between 33 1/3% and 40%, plus expenses depending on whether the matter is personal injury, civil rights or complex litigation.

11. In 2015, I was approved for a billable hourly rate of \$550 per hour in the federal class action matter of *In re NCAA Student-Athlete Name and Likeness Licensing Litigation*, Northern District of California Case No. 09-cv-1967-CW. Additionally, I have clients sign written retainers on civil rights matters recognizing my hourly rates at \$625 per hour. However, this rate has not been approved by any court to date but is shown below as a usual and customary rates charged for attorney's with twenty (20) years legal experience.

POSITION (Attorney or Paralegal)	YEARS OF EXPERIENCE/HOURS	HOURLY RATE	TOTAL
Timothy McIlwain, Esquire	20 Years as attorney w 65 hrs	\$625	\$40,625
Katie Saluzzi (Certified Paralegal)	2.8	\$150.00	\$420
Joanie Kurland, M.D.	96	\$150.00	\$14,400
Brooke Berry	21	\$150.00	\$3,150
TOTALS	184.80		\$58,595

12. My firm incurred a total of **\$306.45** in expenses in connection with the prosecution of this litigation. They are broken down as follows:

EXPENSE CATEGORY	TOTAL
Meals, Hotel & Transportation	
Photocopies	120.10
Postage	
Telephone, Facsimile	
Messenger, Overnight Delivery	\$34.35
Filing, Witness & Other Fees (pacer costs)	\$152
Court Reporter	
Lexis, Westlaw, Online Library Research	
Class Action Notices/Business Wire	
Mediation Fees	
Experts/Consultants/Investigators	
TOTALS	306.45

13. The expenses pertaining to this case are reflected in the books and records of this firm.

These books and records are prepared from expense check records and other documents and are an accurate record of the expenses.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this January 17, 2017

s/Timothy J. McIlwain

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